

REMARKS

This is in response to the Office Action dated June 17, 2009. Claims 1-4, 12, and 14-16 remain pending in this application. Only one ground of rejection is set forth in the outstanding Office Action.

Rejection over Sugasaki in view of Makino and Sunichi

Claims 1-4, 12, and 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2003/0207204 A1 (Sugasaki) in view of US 2005/0074692 A1 (Makino) and JP 2003-223007 (Sunichi). Office Action, pages 3-9. Although the Office Action at the top of page 3 does not include claims 14-16 in this rejection, it is clear from the discussion on pages 8 and 9 of the Office Action that claims 14-16 are intended to be rejected on this ground.

The present application is the U.S. National Phase of an International Application which was filed on March 24, 2005. The Makino application was published subsequent to that date, on April 7, 2005. Accordingly, Makino is being used as a reference in this 35 U.S.C. § 103(a) rejection under the provisions of 35 U.S.C. § 102(e). The 35 U.S.C. § 102(e) date of the Makino application is its U.S. filing date of September 29, 2004.

However, application Serial No. 10/593,625 (the present application) and application Serial No. 10/951,700 (Makino) were, at the time the invention of application Serial No. 10/593,625 was made, both owned by FUJIFILM CORPORATION. Accordingly, under the provisions of 35 U.S.C. § 103(c), the Makino published application may not properly be used against the present application in the foregoing rejection.

Withdrawal of the rejection of record – which improperly incorporates the Makino reference – is in order, and is earnestly solicited.

Conclusion

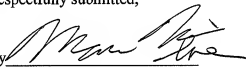
Applicants respectfully submit that claims 1-4, 12, and 14-16 are not rejectable over the prior art of record. Favorable reconsideration of the merits of this application is requested.

Contact information

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Richard Gallagher (Registration No. 28,781) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Dated: September 17, 2009

Respectfully submitted,

By 
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